

REMARKS

Currently, claims 1-8, 12, 17, 18, 21-31, 35, 36, 41-53, 56-60, 62, and 63 remain pending in the present application, including independent claims 1, 29, and 47.

In the Office Action, independent claims 1, 29, and 47 were rejected under 35 U.S.C. § 103(a) in view of EP 1,212,974 in combination with WO 93/02610. EP '974 is directed to a dishwashing wipe comprising a nonwoven or paper cleaning substrate and a comparatively more abrasive, scrubbing substrate comprising a web of fibers. See, e.g., Abstract. Referring to pg. 6, paragraph 25, EP '974 discloses that the substrates can be arranged in a number of different ways when there are multiple substrates. First, when the wipe comprises more than one cleaning substrate (i.e., paper) the cleaning substrates are arranged back-to-back, with at least one scrubbing substrate attached to one side of one of the outer cleaning substrates. Where the wipe comprises two or more scrubbing substrates, the scrubbing substrates may be packed side-by-side such that both scrubbing substrates are in contact with the cleaning substrate. Alternatively, where the wipe comprises two or more scrubbing substrates, the scrubbing substrates are preferably arranged one on top of the other, with only one of the scrubbing substrates in contact with the cleaning substrate. Pg. 6, paragraph 25.

However, as admitted by the Office Action, EP '974 fails to teach all of the limitations of independent claims 1, 29, and 47. For example, EP '974 fails to teach or suggest a plurality of abrasive structures comprising an abrasive layer and an absorbent layer that are configured in a stacked arrangement such that the abrasive layers and the absorbent layers alternate, such as required by independent claim 1. Additionally, EP '974 fails to teach that their layers – no matter their arrangement – are configured to be

releasably attached together permitting a top abrasive structure to be removed from the scrubbing product, such as required by independent claim 1.

In order to overcome the deficiencies of EP '974, the Office Action attempts to combine the teachings of WO '610 to the disclosure of EP '974. WO '610 is directed to a disposable wash cloth comprising a first absorbing layer, a second disinfectant layer, and a third layer. The first layer is exposed for immediate use, with the second layer is enclosed between two attached plastic sheets. The third layer may also be enclosed between two plastic sheets. After the exposed first layer is used, the plastic sheet onto which the first layer is attached is torn off from the second plastic sheet and discarded. Thus, the second layer can be subsequently used for cleaning. See, e.g., Abstract and Fig. 1.

In rejecting independent claim 1, the Office Action states that it would be obvious to arrange the layers of EP '974 to alternate cleaning substrate and scrubbing substrate so to provide a cleaning sheet that is renewable, as motivated by the teachings of WO '610. However, Applicants respectfully submit that no motivation exists to modify the wipes of EP '974 in such a manner.

The entire disclosure of EP '974 is directed to combating the problem of reusing dish washing brushes, cloths, or sponges when washing dishes. Pg. 2, paragraphs 2 and 3. In order to solve this problem, EP '974 discloses a disposable dishwashing wipe, intended for a limited number of uses. After use the consumer is instructed to discard the wipe. Thus, the user is no longer concerned with the presence of residues of antibacterial agents on dishware. Pg. 2, paragraph 3.

Applicants respectfully submit that one of ordinary skill in the art would not be motivated to somehow modify the disposable dishwashing wipes of EP '974 to extend their useful life, as attempted by the Office Action. In fact, as shown above, EP '974 expressly teaches away from such a modification. Plainly, the Examiner's only incentive or motivation for so modifying EP '974 using the teachings of WO '610 in the manner suggested in the Office Action results from using Applicants' disclosure as a blueprint to reconstruct the claimed invention out of isolated teachings in the prior art, which is improper under 35 U.S.C. § 103. Accordingly, it is respectfully submitted that any such modification of the cited references relies on the impermissible use of hindsight, which cannot be successfully used to support a *prima facie* case of obviousness.

Applicants also respectfully submit that for at least the reasons indicated above relating to corresponding independent claims, the pending dependent claims patentably define over the references cited. However, Applicants also note that the patentability of the dependent claims certainly does not hinge on the patentability of independent claims. In particular, it is believed that some or all of these claims may possess features that are independently patentable, regardless of the patentability of the independent claims.

For example, dependent claim 5 requires that the attachment structure comprises a plurality of stitches, and that the abrasive structures are held together by a thread made from an elastic material. In rejecting this claim, the Office Action admits that none of the cited references teaches the use of a thread made from an elastic material. The Office Action then states that "it would have been obvious to one of

ordinary skill in the art to have selected the particular type of thread used through the process of routine experimentation which produced the most durable and securely bonded material.” Pg. 4, lines 6-11. In order to find that a claimed parameter is only the result of routine experimentation, that parameter must be recognized as a variable which achieves a recognized result. See In re Antonie, 195 U.S.P.Q. 6 (C.C.P.A. 1977). The Examiner’s statements regarding “routine experimentation” appear to be based on the notion that it would have been “obvious to try” the use of a thread made of an elastic material in the structures of the cited references to arrive at Appellant’s claim limitations, which is clearly improper under Section 103(a).

In any event, the Office Action’s reasoning that the use of routine experimentation would lead to the selection of the “most durable and securely bonded material” is at odds with the presently claimed structure. For instance, claim 5 requires that the attachment structure releasably attaches the plurality of abrasive structures together. Thus, using the experimentation set forth in the Office Action to select the “most durable and securely bonded material” would not lead to releasably attached structures, as claimed by claim 5. Again, Applicants point out that all of the limitations in the claim must be present in the cited references in order to sustain a proper rejection under 35 U.S.C. § 103(a).

Finally, the Office Action provisionally rejected the claims of the present application under the judicially created doctrine of obvious type double patenting separately in view of 5 applications: 10/745,327; 10/733,162; 10/321,831; 10/321,277;¹

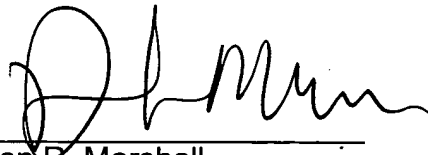
¹ Applicants note that the Office Action provisionally rejected the presently pending claims in view of application serial no. 10/322,277. Applicants thank Examiner Cole for clarifying that the rejection should have been in view of application serial no. 10/321,277.

and 10/036,736. Without commenting on the propriety of these rejections, Applicants have submitted herewith a terminal disclaimer for each application to obviate these rejections.

Applicants respectfully request reconsideration and allowance in view of the above. Should Examiner Cole have any further questions or concerns, she is invited and encouraged to contact the undersigned at her convenience.

Please charge any additional fees or deficiencies to Deposit Account Number 04-1403.

Respectfully submitted,
DORITY & MANNING, P.A.

A handwritten signature in black ink, appearing to read 'A. Marshall', written over a horizontal line.

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